

Before the
Federal Communications Commission
Washington, DC

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Amendment of Section 202(b),)
Table of Allotments,) RM-
TV Broadcast Stations)
(Ogden, Utah))

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To: Chief, Allocations Branch

PETITION FOR RULEMAKING

Utah Television, L.L.C., a California Limited Liability Company ("Utah TV"), and applicant for a construction permit on Channel 24 at Ogden, Utah (File No. BPCT-950815KE); and The Kralowec Children's Family Trust ("Kralowec") and Front Range Broadcasting Company (File No. BPCT-950321KH) predecessors in interest to Ogden Television, Inc., hereby respectfully request that Section 73.606(b) TV Table of Allocations be amended as follows:

<u>Community</u>	<u>Current</u>	<u>Proposed</u>
Ogden, UT	*9, *18, 24, 30	*9, *18, 42, 30

The parties additionally request the concurrent modification of the Utah TV application for a construction permit for Channel 24 to specify operation on Channel 42. In support of these requests, the following is stated:

Background

1. There are four television allotments assigned to Ogden: Channel 24; educational Channel 9, Station KULC; Station KOOG(TV), Channel 30; and Channel *18, an unapplied for educational allotment. On March 21, 1995, Front Range filed the initial application for Channel 24 which, on August 14 and 15, 1995, were followed by applications filed by Kralowec and

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Beehive Broadcasting Corp. (File No. BPCT-950814KG) ("Beehive"). On December 14, 1995, in compliance with Section 73.3525 of the Commission's Rules, Beehive, Kralowec, and Front Range entered into a settlement agreement to resolve the conflict between their competing applications by providing for the dismissal of Beehive's and Front Range's applications, and to allow for the amendment of Kralowec's application to designate Utah TV as the name of the surviving applicant. Utah TV is owned by Kralowec and Front Range.

2. The main transmitter site serving the Salt Lake City market is Farnsworth Peak. Utah TV's pending application for Channel 24 specifies a transmitter site at Little Mountain, which is far from Farnsworth Peak. Channel 24 cannot be used at Farnsworth Peak without a waiver of the Commission's Rules due to the fact that it does not meet the Commission's minimum separation standards. In contrast, Channel 42, which is unassigned in the entire state of Utah, meets full milage separation standards with other stations from Farnsworth Peak, while also still meeting full milage separation standards from Little Mountain and proving full city-grade coverage to Ogden, Utah.

3. Accordingly, Channel 42 can be substituted for Channel 24 at Ogden, which will allow for Channel 42 to operate from Farnsworth Peak with no milage separation conflicts in accordance with the Commission's Rules. The attached engineering Study prepared by Donald S. Wilson, Director of Engineering of Venture Technologies Group, LLC, demonstrates the technical feasibility of this channel substitution.

Adoption of The Parties' Proposal Would Serve the Public Interest

4. As the Commission has recognized, each allocation proceeding is to be decided based upon the relevant facts and circumstances that are present in the individual case presented to the

Commission. Amendment of Section 73.606 (Erie, Pennsylvania, et al.), 17 R.R. 1518(B), 1519 (1958). In this case, as in previous decisions, the exchange of an unoccupied and unapplied for channel with another UHF channel is justified because of the many public interest considerations that are present.

5. In Amendment of Section 73.606(b) (Jacksonville and Palatka, Florida), 3 R.R.2d (1964), the Commission adopted a proposal similar to that proposed herein. In that case, Channel 17 was substituted for Channel 36 at Jacksonville, Florida, and the Jacksonville permittee's license was modified to reflect operation on Channel 17 rather than Channel 36, and Channel *36 was substituted for vacant Channel *17 at Palatka. Similarly, in Amendment of Section 73.606(b) (Crossville, Tennessee), 47 R.R.2d 1285 (Broadcast Bureau 1980), the noncommercial education reservation for Crossville, Tennessee, which was unoccupied and unapplied for, was changed from Channel *20 to Channel *55 and the Crossville licensee's license was modified to reflect operation on newly unreserved commercial channel, Channel 20. In the Crossville case, the channel switch and license modification was deemed to be in the public interest because such a change would facilitate a more favorable economic situation for the affected commercial station by making it more competitive. See also, Amendment of Section 606(b) (Seaford, Delaware), 43 R.R.2d 1551 (Broadcast Bureau 1978); Amendment of Section 73.606(b) (Columbus, Mansfield and Newark, Ohio), 21 F.C.C.2d 145 (1970). Similarly, in the Notice of Proposed Rule Making recently adopted with respect to Kansas City, Missouri, DA 96-945 (June 21, 1996), the Commission is considering a proposal whereby the permittee of Channel 32 in Kansas City has requested a modification of its construction permit to specify operation on Channel 29, and requested that the coordinates of a vacant allotment be changed

to accommodate the requested substitution.

6. In the instant case, public interest considerations strongly support adoption of the parties' proposal. If forced to operate from Little Mountain, this new station will be unable to achieve a signal strength competitive with the other area commercial stations, both in Ogden and the entire market. The proposed amendment of the Table of Allotments would enable the new station to achieve competitive parity with the other stations by allowing co-location of its transmitter.

7. Moreover, operation on Channel 24 from Little Mountain necessitates operation to the west of Ogden, while all other area television stations operate or plan to operate from sites located to the south of Ogden. The substitution and resultant co-location proposed herein will eliminate the reception disadvantage the new station would be faced with from operation at a location requiring different receive-antenna orientation. Consequently, outdoor receiving antennas in operation in this area generally will be located *away* from Channel 24 (and require Channel 24 to operate at a severe competitive disadvantage *vis a vis* existing Ogden stations).¹ The Commission has allowed channel substitutions to occur in the past where the grant would permit a petitioner to locate at a preferred transmitter site (*e. g.*, its AM tower) (Campbellsville, Smiths Grove, Cave City, Horse Cave, and Liberty, Kentucky; Donelson and Mt. Juliet, Tennessee,

4 FCC Rcd 5770 ¶ 6 (Chief, Allocations Branch 1989), and specifically has stated that

¹ Antenna orientation problems are caused by the signals arriving from different directions that a viewer cannot, with one receiving antenna, get clear pictures from all desired locations. WTCN Television, Inc., 14 F.C.C.2d 870, 891 n.32 (Rev. Bd. 1968). Moreover, the Commission has recognized that this problem is especially acute with UHF reception *vis a vis* VHF reception. UHF reception suffers from a technical disadvantage, such that tuning is less automatic, takes more time, and has a greater tendency to drift, and UHF antenna usually are required for reception and their orientation must be relatively precise. Midwest Television, Inc., 13 F.C.C.2d 514, 526-27 ¶ 48 (I.D. 1967).

permitting multiple area stations to locate a transmission sites in close proximity to one another (e.g., an "antenna farm") is an "independent public interest benefit" supporting grant of a relocation request, which prevents the creation of unwanted competitive imbalances among stations. Elba Development Corp., 55 R.R.2d 647, 651 (1984). See also, Carolina Broadcasting Co., 18 F.C.C. 482, 484 ¶ 6 (1969) (Commission encourages use of antenna farms to promote air safety and to minimize antenna orientation problems); Indiana Broadcasting Corp., 25 F.C.C.2d 421, 424 ¶ 7 (1970) (Commission has recognized that simplification of receiver antenna orientation can be a public interest factor); WCCY, Inc., 16 F.C.C.2d 506, 535 ¶ 50 (Rev. Bd. 1969) (antenna orientation is indeed a matter of proper consideration by the Commission); WTCN Television, Inc., 14 F.C.C.2d 870, 891 (Rev. Bd. 1968).

8. Finally, the proposed change is in the public interest insofar as it will not affect an existing commercial operation, since Channel 42 is unassigned in the area. Moreover, insofar as the station is not yet on the air, a change in channels will not cause disruption to existing service.

Conclusion

9. The modification to the Table of Allotments being presented herein will result in a preferential allotment of channels that will be in the public interest. For all of the reasons stated herein, it is respectfully requested that this Petition be granted.

Respectfully submitted,

UTAH TELEVISION, L.L.C.
a California Limited Liability
Company

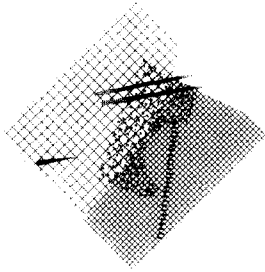
By


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July 17, 1996



Venture Technologies Group, Inc.

ENGINEERING STATEMENT OF DONALD S. WILSON

In Support of Petition for Amendment of Section 73.606, Table of Assignments of Television Channels by Utah Television, L.L.C., a California Limited Liability Company, The Kralowec Children's Family Trust, and Front Range Broadcasting Company, July 1996.

Proposed Reassignment:

**Channel 24 from Ogden, Utah -- deleted
Channel 42 to Ogden, Utah -- assigned**

This engineering study has been prepared in support of the above-referenced changes in the Table of Television Allotments. The proposed changes appear to be easily accomplished without adversely affecting any existing or potential operation, including designated channels 24 and 31.

As indicated on Tables 1, 2 and 3 of this Engineering Statement, amendment of the Table of Television Allotments as proposed by Utah Television, L.L.C., a California Limited Liability Company ("Utah TV"), The Kralowec Children's Family Trust ("Kralowec"), and Front Range Broadcasting Company ("FRBC") will eliminate existing technical limits on the proposed use of the applied for Channel Ogden, Utah, allowing the station to potentially be operated from the main transmitting site for stations serving the Salt Lake City television market and Ogden, Utah, specifically.

Table 1: Ogden, Utah City Coordinates herein presents a distance separation study for Channel 42 at Ogden, when location is assumed to be at the allotment coordinates for Channel 24 at Ogden, Utah. Note that from this location, Channel 42 meets all mileage separation requirements. The closest facility applicable is the channel 28 assignment at Preston, Idaho, which is 1.7 kilometers further than the minimum distance separation.

Table 2: Little Mountain Site herein presents a distance separation study for Channel 42 at Ogden, when location is assumed to be at the Utah Television (formerly Kralowec) proposed transmitter site. Note that from this location, Channel 42 meets all mileage separation requirements. The closest facility applicable is the channel 28 assignment at Preston, Idaho, which is 2.6 kilometers further than the minimum distance separation.

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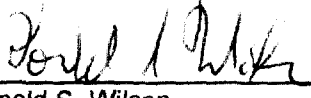
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Table 3: Farnsworth Peak Site herein presents a distance separation study for Channel 42 at Ogden, when location is assumed to be at the FRBC proposed transmitter site. Note that from this location, Channel 42 meets all mileage separation requirements. Because no applicable mileage separation shows up within 99 kilometers above the minimum mileage spacing requirements, there is no station impacted.

The foregoing statement with related data have been prepared by under the direction of Donald S. Wilson, Director of Engineering of Venture Technologies Group, LLC, Los Angeles, California. All representations herein are certified to be true and correct, to the best of my knowledge and information.

Respectfully submitted.



Donald S. Wilson

Date: 8 July 1996



Table 1: Ogden, Utah City Coordinates

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*****      TV CHANNEL SPACING STUDY      *****

Job title: OGDEN UT ALLOTM CH 42
Channel: 42
Database file name: tv960705.edx

Latitude: 41 13 24
Longitude: 111 58 18

CH  Call      Record No.      City      ST Z SPS  Bear. Dist.  Req'd. Dist. Result
--  -
28o ALLOTM      9937      PRESTON      1D 2      4.7  97.4  95.7  1.7

*****      End of channel 42 study      *****

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Table 2: Little Mountain Site

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*****      TV CHANNEL SPACING STUDY      *****

Job title: OGDEN UT LITTLE MTN CH 42
Channel: 42
Database file name: tv960705.edx

Latitude: 41 15 17
Longitude: 112 14 13

CH  Call      Record No.      City      ST Z SPS  Bear. Dist.  Req'd. Dist. Result
--  -
28o ALLOTM      9937      PRESTON      1D 2      17.6  98.3  95.7  2.6

*****      End of channel 42 study      *****

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Table 3: Farnsworth Peak Site

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*****      TV CHANNEL SPACING STUDY      *****

Job title: OGDEN UT FARNSWORTH CH 42
Channel: 42
Database file name: tv960705.edx

Latitude: 40 39 35
Longitude: 112 12 5

CH  Call      Record No.      City      ST Z SPS  Bear. Dist.  Req'd. Dist. Result
--  -
*****      End of channel 42 study      *****

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